

REMARKS

Reconsideration and allowance of this application are respectfully requested. Claims 2, 4-5, 9, 12, 14-15 and 18-28 are cancelled. Claims 1, 3, 6-8, 10-11, 13 and 16-17 remain in this application and, as amended herein, are submitted for the Examiner's reconsideration.

Claim 8 has been amended solely to have the claims better conform to the requirements of U.S. practice. None of these amendments is intended to narrow the scope of any of these claims, and no new matter has been added by these amendments.

During a telephone conference held on April 30, 2008, the Examiner addressed the apparent inconsistency in the Office Action by indicating that the section describing allowable subject matter (see Page 3) did not belong in the present Office Action.

Turning now to the art rejections, claims 1, 3, 6-11, 13 and 16-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ginter (U.S. Patent Application Publication No. 2004/0133793) in view of Shimoyoshi (U.S. Patent No. 5,548,574). Claim 9 is cancelled. Applicants submit that the remaining claims are patentably distinguishable over the relied on sections of the references.

As amended herein, claim 1 recites:

transmitting means for transmitting inquiry information to an information center over a communication line, said inquiry information including a particular frame of music data extracted from encoded digital data that have been recorded on a storage medium;

receiving means for receiving a result of an inquiry conducted by said information center based on said inquiry information, the result of an inquiry indicating whether the extracted particular frame of music data matches a corresponding frame of music data stored in the information center, the stored frame of music data being encoded or recorded in a manner consistent with the digital signal processing

apparatus, the extracted particular frame of music data matching the stored frame of music data only when the encoded digital data recorded on the storage medium was encoded or recorded in the manner consistent with the digital signal processing apparatus; [and]

discriminating means for judging, based on said result of said inquiry, whether said encoded digital data recorded on said storage medium was encoded or recorded in the manner consistent with the digital signal processing apparatus and thus legally purchased data[.] (Emphasis added.)

Neither the relied on sections of Ginter nor the relied on sections of Shimoyoshi disclose or suggest inquiry information including a particular frame of music data extracted from encoded digital data recorded on a storage medium. Moreover, neither the relied on sections of Ginter nor the relied on sections of Shimoyoshi disclose or suggest an inquiry indicating whether an extracted particular frame of music data matches a corresponding frame of music data stored in an information center, and neither the relied on sections of Ginter nor the relied on sections of Shimoyoshi disclose or suggest an extracted particular frame of music data (extracted from encoded digital data recorded on a storage medium) matching a stored frame of music data (stored in an information center and encoded or recorded in a manner consistent with a digital signal processing apparatus) only when encoded digital data recorded on the storage medium was encoded or recorded in the manner consistent with a digital signal processing apparatus. Further, neither the relied on sections of Ginter nor the relied on sections of Shimoyoshi disclose or suggest judging whether encoded digital data recorded on said storage medium was encoded or recorded in the manner consistent with the digital signal processing apparatus based on a result of such an inquiry, and neither the relied on sections of Ginter nor the relied on sections of Shimoyoshi disclose or suggest that encoded digital

data recorded on a storage medium and encoded or recorded in a manner consistent with a digital signal processing apparatus are legally purchased data.

Amended claim 1 also calls for:

controlling means for executing, in response to
said discriminating means judging said encoded digital
data to be legally purchased data, a process to offer
an additional service to said customer[.] (Emphasis
added.)

For the reasons set out in the Amendment dated October 10, 2007, neither the relied on sections of Ginter nor the relied on sections of Shimoyoshi disclose or suggest executing a process to offer an additional service to a customer.

It follows, for at least these reasons, that neither the relied on sections of Ginter nor the relied on sections of Shimoyoshi, whether taken alone or in combination, disclose or suggest the apparatus set out in claim 1. Claim 1 is therefore patentably distinct and unobvious over the relied on references.

Independent claim 11 has been amended to call for features similar to those set out in the above excerpts of claim 1. Claim 11 is therefore patentably distinct and unobvious over the relied on sections of Ginter and Shimoyoshi for at least reasons set out above regarding claim 1.

Claims 3, 6-8 and 10 depend from claim 1, and claims 13 and 16-17 depend from claim 11. Therefore, each of these claims is distinguishable over the relied on sections of Ginter and Shimoyoshi at least for the same reasons as its parent claim.

Accordingly, Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. § 103(a).

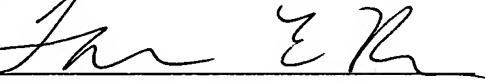
In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of

the claims and to pass this application to issue. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: May 5, 2008

Respectfully submitted,

By 
Lawrence E. Russ

Registration No.: 35,342
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant

864760_1.DOC